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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,605	09/28/2004	David W. Johnston	04-1-723	5604
24252	7590	03/10/2006	EXAMINER	
OSRAM SYLVANIA INC 100 ENDICOTT STREET DANVERS, MA 01923			NGUYEN, TU T	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

37

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/711,605		JOHNSTON, DAVID W.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Tu T. Nguyen		2877	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Objections*

Claim 7 is objected to because of the following informalities:

Claim 7 should be depended on claim 1.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

*Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Priestley (2003/0227622) in view of Gobeli (6,246,893).*

With respect to claim 1, Priestley discloses a sequential arrangement. The arrangement comprises: a light source 32 (fig 3), a first polarizer 34 (fig 3), a material sample 38 (fig 3), a quarter wave plate 44 (fig 3), a second polarizer 46 (fig 3) substantially aligned along a central axis; the orientation of the first polarizer to the quarter wave plate being fixed, and the second polarizer being rotatable (paragraph [0023], lines 5-7) about the central axis.

Priestley does not disclose an LED. Gobeli discloses a polarization arrangement. The arrangement comprises: an LED 2 (fig 2) (column 5, lines 44-45). It would have been obvious to modify Priestley with the LED taught by Gobeli to reduce the cost of the system.

Claims 2,4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Priestley (2003/0227622) in view of Gobeli (6,246,893) and Puzey (2005/0207943).

With respect to claims 2,4, Priestley does not disclose the claimed wavelength ranges. Puzey discloses a system for detecting an analyte. The system comprises: laser diode 504 (fig 7C) for operating different wavelength ranges (paragraph [0110], last line). It would have been obvious to modify Priestley with the LED taught by Puzey for providing different wavelength ranges to measure different type of samples.

Claims 5,7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Priestley (2003/0227622) in view of Gobeli (6,246,893) and Cote et al (5,209,231).

With respect to claim 5, Cote discloses using a polarizing film (column 6, line 13). It would have been obvious to modify Priestley with the polarizing film taught by Cote to reduce the size of the system.

With respect to claim 7, Cote discloses a controller 22 (fig 1) for controlling the degree of rotation of the second polarizer. Cote does not explicitly disclose an indica for determining the degree of rotation. The claimed indica would have been known in the art. It would have been obvious to modify Priestley with the known indica to control the degree of rotation of the second polarizer more accurate.

With respect to claim 8, Cote does not disclose the extinction ratio as claimed. However, it would have been obvious to modify Cote polarizer film 14 (fig 1) with any desired extinction ratio to measure different characteristics of the sample.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Priestley (2003/0227622) in view of Gobeli (6,246,893) and Cote et al (5,209,231) and Puzey (2005/0207943).

With respect to claim 9, refer to discussion in claims 2,4 above.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Priestly (2003/0227622) in view of Gobeli (6,246,893) and Endoh et al (WO 2004/021884, using publication 2005/0148876 as a translation).

With respect to claim 3, Priestly does not disclose using a plurality of LEDs. Endoh discloses a system. The system comprises: a plurality of LEDs (column 16, lines 65-67 and column 17, lines 1-5) for evenly illuminating an object (paragraph [0099]). It would have been obvious to modify Priest with a plurality of LEDs as taught by Endoh to provide an even illumination field to make the system more accurate.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Priestley (2003/0227622) in view of Gobeli (6,246,893) and Cote et al (5,209,231) and Puzey (2005/0207943) and Endoh et al (WO 2004/021884, using publication 2005/0148876 as a translation).

With respect to claim 10, refer to discussion in claim 3 above.

### ***Allowable Subject Matter***

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior arts of record do not disclose the structural arrangement as claimed in claim 6 in combination with all the limitations of claim 1.

### ***Response to Arguments***

Applicant's arguments filed 12/19/2005 have been fully considered but they are not persuasive.

With respect to Applicant's argument on claims 1-10, refer to discussion above for the arguments.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu T. Nguyen whose telephone number is (571) 272-2424. The examiner can normally be reached on T-F 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Toatley Jr. can be reached on (571) 272-2800 Ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tu T. Nguyen  
Primary Examiner  
Art Unit 2877

03/03/2006